

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #12	CCRB Case #: 202005120	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 9:10 PM	Location of Incident: Church Street and Canal Street	Precinct: 01	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 07/20/2020 10:04 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 07/20/2020 10:04 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ricardo Jeanbaptiste	16029	940302	PROPCLK
2. POM Frank Gut	05662	949070	001 PCT
3. POM Brandon Roman	25440	967306	041 PCT
4. POF Jennifer McGowan	05462	958903	SRG 5
5. COP Fausto Pichardo	00000	923460	P S B
6. POF Stacy Weinstein	15519	951427	
7. POM Christophe Pelcher	31890	968703	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer struck § 87(2)(b) with a nightstick.	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

Case Summary

On July 20, 2020, § 87(2)(b) filed this complaint via the CCRB online website.

On May 31, 2020, at approximately 9:10 p.m., in the vicinity of Church Street and Canal Street in Manhattan, § 87(2)(b) engaged in protest activity with approximately one thousand other civilians who had crossed the Manhattan Bridge from Brooklyn into Manhattan. During the protest, protestors and officers stopped and faced each other. Then, officers ran towards protestors. An unidentified officer struck § 87(2)(b) with a nightstick (**Allegation A -Force: Nightstick as club, § 87(2)(g)**). An unidentified officer dragged § 87(2)(b) by one of his feet for five feet (**Allegation B -Force: Physical force, § 87(2)(g)**). § 87(2)(b) was placed in handcuffs. After he was handcuffed, officers discussed what actions they would take against § 87(2)(b). An officer removed the handcuffs from § 87(2)(b) and stated, “Get the fuck out of here. If I see you again, I’ll actually fucking arrest you” (**Allegation C -Discourtesy: Word, § 87(2)(g)**) (**Allegation D -Abuse of Authority: Threat of arrest, § 87(2)(g)**). § 87(2)(b) was not arrested or issued a summons as a result of this incident.

The investigation obtained video footage from two different sources: Footage recorded by § 87(2)(b) and obtained from his Twitter account (Board Review 01); footage recorded by officers on their Body-Worn Cameras (BWCs) and provided to the CCRB by the NYPD’s Legal Bureau (Board Review 02, Board Review 03, and Board Review 12); footage recorded by officers on BWCs, obtained by § 87(2)(b), § 87(2)(b) civil attorney, and provided by him to the CCRB (Board Review 05); and footage attached to a § 87(2)(b) article and proactively obtained by the CCRB (Board Review 13).

Pleading Language for all allegations to be closed as officer unidentified

Allegation (A) Force: An officer struck § 87(2)(b) with a nightstick.

Allegation (B) Force: An officer used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (D) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Known facts and general descriptions

In his detailed statement to the CCRB (Board Review 04), § 87(2)(b) stated that he and other protestors were at Church Street and Canal Street in Manhattan between 9:00 p.m. and 9:05 p.m. when an ambulance passed them. At approximately 9:10 p.m., officers used physical force against § 87(2)(b). § 87(2)(b) described one subject officer as a black male with a heavy build and wearing a helmet and short-sleeved white shirt. § 87(2)(b) described another subject officer as an approximately 6’0” tall black or Hispanic male in his 40s with a “fit” build and wearing a white shirt, black tie, black cap, and surgical mask. § 87(2)(b) thought, based on viewing New York Times article footage of the incident and seeing photographs of Captain Fausto Pichardo online, that this officer was Captain Pichardo. § 87(2)(b) described a final subject officer as an approximately 5’10” tall Asian male in his late 20s to early 30s with an average build and wearing a navy, short-sleeved shirt and an “SRG helmet.”

BWC footage obtained in this case (Board Review 02, Board Review 03, and Board Review 13) depicts no officers matching any of these descriptions taking the actions alleged or being present near the vicinity of the alleged actions.

The investigation obtained video footage recorded by § 87(2)(b) (Board Review 01). The footage recorded by § 87(2)(b) depicts, from the outset, dozens of officers moving in the same direction in the roadway. At the 00m20s mark, six officers, three of whom wear white uniform shirts, are in crouching positions over § 87(2)(b) who is on the ground. No specific actions by officers can be discerned. The video depicts an officer who wears a cap and uniform shirt with a variety of insignia on it and appears to have a description consistent with § 87(2)(b) description of Captain Pichardo. Aside from this officer, no other officer can be identified; officers' name plates or shield numbers on either helmets or uniforms do not clearly enter view nor can the investigation discern the officers' basic pedigree information. The footage depicts a more comprehensive view of officers and § 87(2)(b) than that reflected in the footage § 87(2)(b) reviewed that had been attached to a § 87(2)(b) article.

While BWC footage depicted officers present in the vicinity of the incident location minutes after the time § 87(2)(b) alleged and depicted officers wearing helmets with possible shield numbers on them, the portion of the incident depicted could not be connected with the allegations in this complaint due to no apparent depiction of either § 87(2)(b) or officer actions consistent with those prior to or during officer interactions with § 87(2)(b).

BWC

BWC footage was provided to the CCRB in two sets: two files were initially received and deemed to be irrelevant because the timestamps of the footage received were inaccurate and the footage likely fell outside the timeframe reflected in this incident. In particular, the natural light conditions in the footage depicting the allegations were drastically different than that within the BWC footage, which appears irrelevant to this case. An updated request was sent to the NYPD and met with seven responsive videos. The search terms involved a time range of 8:30 p.m. to 9:30 p.m. on May 31, 2020, the 1st Precinct, and named MOS of PO Frank Gut, PO Ricardo Jeanbaptiste, PO Jennifer Magowan, PO Brandon Roman, and Captain Fausto Pichardo. These files appeared to depict a timeframe accurate to this incident. However, no footage appeared to depict any allegations in this complaint, nor did it appear to depict § 87(2)(b) in any context.

NYPD Documents Reviewed

Although § 87(2)(b) was briefly detained during this incident, he was neither arrested nor issued a summons. Documents received from the Department Advocate Office (Board Review 06), the Strategic Response Group (Board Review 07), and the Legal Bureau (BWC footage) did not yield and viable leads regarding the identity of officers potentially involved in this incident.

Concurrent Investigations

No other concurrent investigation regarding this incident is known.

Ranking Officers

The highest ranking officer thought to be present during this incident was Captain Pichardo, who could not be interviewed due to his retirement from the NYPD (Board Review 08).

Officers Interviewed

Captain Pichardo was the most likely subject or witness officer identified in this case, but as noted above, he could not be interviewed. No additional officers were interviewed as a result of lacking leads towards officers present as either subjects or witnesses.

Allegation Recitation and Disposition

Allegation (A) Force: An officer struck § 87(2)(b) with a nightstick.

Allegation (B) Force: An officer used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (D) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Due to that noted above, the investigation was unable to identify or interview the subject officers associated with these allegations. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 09).

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 23, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 10).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of conviction in New York City (Board Review 11).

Squad: 12

Investigator: Chris Anderson SI Chris Anderson 10/12/2021
Signature Print Title & Name Date

Squad Leader: Carlmais Johnson IM Carlmais Johnson October 12, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date